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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/856,566

05/23/2001

Peter Twardowski

2001-7032

9938

7590

05/24/2006

Elias C Borges  
10 KINGSBRIDGE GARDEN CIRCLE  
SUITE 704  
MISSISSAUGA, L5R 3K6  
CANADA

EXAMINER

PATEL, JAGDISH

ART UNIT

PAPER NUMBER

3624

DATE MAILED: 05/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/856,566	TWARDOWSKI, PETER	
	<b>Examiner</b>	<b>Art Unit</b>	
	JAGDISH PATEL	3624	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 May 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. The abstract of the disclosure is objected to because the abstract is not provided on a separate sheet. Correction is required. See MPEP § 608.01(b).

#### ***Claim Objections***

2. Claim 1 is objected to because of the following informalities: Claim 1 fails to define acronym "CPI" in the claim. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 fails to recite specifically where the weights for necessities and semi-necessities are implemented. The step of implementing therefore is incomplete and indefinite and the scope of the claimed invention cannot be ascertained. The claim also recites "necessities" and "non-necessities" as abstract terms, without providing any quantitative measure of such terms. In other words such terms are provided without any degree of specificity. Therefore, the claim as a whole is rendered indefinite and vague. Like wise the process step of "adjusting for government subsidies" is also vague and indefinite because this process is recited without particularly pointing out how adjusting is carried out or on basis the adjusting is performed.

Art Unit: 3624

Based upon the foregoing discussion of the claim it asserted that the claim is indefinite and fails to particularly point out and distinctly claim the subject matter of the claim.

### **Claim Rejections - 35 USC § 101**

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Art Unit: 3624

6. Claim 1 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Under the Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility a claimed invention must satisfy the requirement that it be directed to a "practical application" which is to mean "the claimed invention physically transforms an article or physical object to a different state or thing, or ... the claimed invention otherwise produces a useful, concrete, and tangible result".

If a claim satisfies those questions, then the claim describes eligible subject matter. In the instant case the claimed invention does not physically transform an article or a physical object to a different state or thing since the claim is not directed to an article or physical object. Therefore, a relevant test to determine eligibility requirement is whether, the claimed invention as a whole is limited to a useful, concrete, and tangible Result.

The following definitions are used as guidelines in determining whether the claimed invention produces a useful, concrete, and tangible result.

Useful — must be (i) specific, (ii) substantial and (iii) credible and specifically recited in the claim.

Tangible — must be some "real-world result." (Tangible is the antonym of abstract.)

Concrete — must have a result that "can be substantially repeatable or the process must substantially produce the same result again." (Concrete is antonym of unrepeatable or unpredictable.)

The claim recites terms “weights for necessities and non-necessities goods ” and “adjusting for government subsidies” without any specificities (see analysis under 35 USC 112 (second)). As such implementing weights (presumably in calculation of a CPI number) and adjusting (the CPI number) is an abstract concept since it is not related to a real-world act or usefulness and therefore is not tangible. The claim is also fails to recite a concrete result because the CPI number is strongly dependent upon the implementation of the weights for which there is no standard provided and therefore based upon (selection and implementation of) weights one can obtain varying CPI. Finally, the claim is not directed to any useful results because the CPI number is not relied upon for any real world utility.

In summary, the claim as whole fails to produce a concrete, tangible and useful result and is non statutory subject matter and rejected under 35 USC 101.

Any amendment to the claim should be clearly supported by the disclosure. The applicant is requested to specify appropriate portions of the disclosure if the claim is amended.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

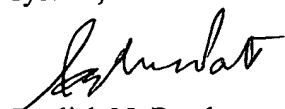
The enclosed references provide general state of the pertinent art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAGDISH PATEL whose telephone number is (571) 272-6748. The examiner can normally be reached on 800AM-600PM M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 517-273-8300.

Art Unit: 3624

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jagdish N. Patel

(Primary Examiner, AU 3624)

5/22/06

<b>Notice of References Cited</b>	Application/Control No. 09/856,566		Applicant(s)/Patent Under Reexamination TWARDOWSKI, PETER	
	Examiner JAGDISH PATEL		Art Unit 3624	Page 1 of 1

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-5,523,942	06-1996	Tyler et al.	705/4
*	B	US-6,298,334	10-2001	Burfield et al.	705/36R
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

**FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	PR Newswire, "Chamber Releases Latest Cost-of-Living Figures, January 22, 1990
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

4/9,K/15 (Item 1 from file: 813)  
DIALOG(R) File 813:PR Newswire  
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0236168 SE003  
CHAMBER RELEASES LATEST COST-OF-LIVING FIGURES

DATE: January 22, 1990 15:23 EST WORD COUNT: 811

SEATTLE, Jan. 22 /PRNewswire/ -- According to the third quarter 1989 Intercity Cost-of-Living Index prepared by the American Chamber of Commerce Researchers Association (ACCRA), with the help of the Greater Seattle Chamber of Commerce Research Department, Seattle is 11.1 percent above the national average in the cost of sustaining a mid-management standard of living.

The ACCRA Cost-of-Living Index is based on costs of 59 items, excluding taxes and nonconsumer expenditures. Prices are collected quarterly by the Greater Seattle Chamber of Commerce Research Department and similar organizations in each of the 289 participating urban areas. An index is created with 100 as the national average.

Among the 20 largest cities included in the third quarter 1989 report, living costs ranged from 57.2 percent above the national average in New York to 2.5 percent below the average in St. Louis. Nineteen of the 20 cities showed living costs above the national average.

The overall index is derived from six \*\*\*components\*\*\*. Each component is weighted, with the weight based on the data used by the Bureau of Labor Statistics to compile the \*\*\*Consumer\*\*\* \*\*\*Price\*\*\* \*\*\*Index\*\*\*. The six \*\*\*components\*\*\* and their \*\*\*weights\*\*\* are: groceries (.17), housing (.22), utilities (.11), transportation (.13), health care (.07) and miscellaneous costs (.30).

Among the 20 largest cities surveyed, the cost index for grocery items ranged from 120.5 in New York to 92.1 in Denver. Groceries were at 111.9 in Seattle. The housing index displayed considerably greater variation, with a high of 259.6 in San Francisco and a low of 80.6 in Houston. The Seattle housing index was 121.8. Utilities also showed a wide range, from a low of 64.0 in Seattle to 188.3 in New York. Seattle's utility rating is among the lowest in the nation. For transportation, the range was bracketed by a high of 124.9 in New York and a low of 97.2 in St. Louis -- 122.2 in Seattle.

Among the large cities, health care costs were lowest in St. Louis, with a reading of 98.1, and highest in San Francisco, where the index was 155.3. Seattle, at 142.7, also rates high in health care costs. But this index does not take into account Seattle's relatively low cost per hospital stay. Average length of stay in Seattle and Washington-area hospitals is lower than the national average, making total costs per stay lower than individual nightly room rates indicate. Unfortunately for Seattle, healthcare provider costs are much easier to compare than the quality of health care.

Finally, among the large cities, miscellaneous goods and services cost the least in St. Louis with a 95.8 reading, and the most in New York at 121.1 -- 107.9 in Seattle.

Because the number of items priced is limited, the ACCRA Cost-of-Living Index is not a precise measure; however the index is a reasonable indication of the extent that prices differ between cities. Cost differences on the order of 3 percent or less should not be interpreted as showing any significant variation.

ACCRA COST-OF-LIVING INDEX

THIRD QUARTER 1989

	ALL ITEMS	GROCERY ITEMS	HOUSING	UTIL- ITIES	TRANS- PORTATION	HEALTH CARE
Urban United States	100.0	100.0	100.0	100.0	100.0	100.0
NORTHEAST						
Baltimore (A)	109.5	98.9	123.5	105.9	111.8	114.4
Nassau-Suffolk, N.Y.						
PMSA	157.2	120.5	243.7	188.3	124.9	140.6
Philadelphia	127.2	108.4	142.4	171.3	109.6	139.9
Washington, D.C.	128.4	107.7	179.0	117.0	115.0	125.7
NORTH CENTRAL						
Indianapolis	99.3	97.3	97.5	107.8	105.7	100.4
Milwaukee PMSA	102.0	96.8	116.2	98.0	104.1	102.0
Minneapolis	99.8	93.5	106.6	99.5	104.1	103.3
St. Louis	97.5	93.2	97.1	109.9	97.2	98.1
Omaha, Neb.	92.6	91.2	87.6	88.2	112.6	84.7
Columbus, Ohio	102.4	94.1	106.8	97.1	104.1	99.2
SOUTH						
Birmingham, Ala.	98.5	94.4	93.3	112.8	98.1	94.3
Miami	110.1	101.7	113.3	132.2	99.6	127.7
Atlanta	107.1	96.6	111.2	114.1	102.6	130.8
Louisville, Ky.	94.3	98.2	91.4	84.2	96.1	89.4
New Orleans	97.8	96.9	90.4	121.6	94.4	89.5
Memphis, Tenn.	98.2	100.5	88.4	92.5	110.8	93.7
Charlotte, N.C.	99.6	94.5	104.4	96.1	95.2	100.8
SOUTHWEST						
Phoenix, Ariz.	102.8	99.1	104.4	93.1	101.2	119.3
Oklahoma City	94.2	99.7	79.0	101.5	96.5	96.3
Albuquerque, N.M.	101.5	100.5	106.1	99.9	101.8	105.8
Dallas	103.8	105.2	99.6	109.3	107.5	108.8
Houston	101.9	102.6	80.6	127.6	111.8	103.8

San Antonio, Tex.	97.1	102.3	85.2	104.6	98.4	100.1
WEST						
Anchorage, Alaska	125.7	130.3	128.3	92.7	121.4	178.6
Orange County, Calif.	132.3	101.4	222.1	70.4	114.2	133.6
San Diego	131.0	106.8	204.4	78.0	127.0	129.5
San Francisco	144.5	108.2	259.6	81.1	124.7	155.3
Denver	101.5	92.1	110.1	96.1	106.7	111.9
Portland, Ore.	103.0	102.4	104.6	72.3	112.7	125.9
Salt Lake City	94.8	96.1	84.1	89.8	101.3	97.9
Seattle	111.1	111.9	121.8	64.0	122.2	142.7

(A) Second Quarter 1989

Source: American Chamber of Commerce Researchers Association,  
"Intercity Cost of Living Index."

CONTACT: Jim Mayfield, 206-461-7210, or Sally Wright,  
206-461-7268, both of the Greater Seattle Chamber of Commerce

COMPANY NAME: GREATER SEATTLE CHAMBER OF COMMERCE; AMERICAN CHAMBER  
OF COMMERCE RESEARCHERS ASSOCIATION  
STATE: WASHINGTON (WA)  
SECTION HEADING: BUSINESS

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